

The Flinn Report

Illinois

Regulation

Claire B. Eberle, Editor

700 Stratton Bldg., Springfield IL 62706

Joint Committee on Administrative Rules

Illinois General Assembly

217/785-2254

www.ilga.gov/commission/jcar

VOL. 28

December 27, 2004

Issue 52

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.

New Regulations

PROFESSIONAL LICENSURE

The Department of Financial and Professional Regulation adopted amendments for rules titled "Clinical Social Work and Social Work Practice Act" (68 Ill Adm Code 1470), effective 12/8/04, to change the name of the American Association of State Social Worker Boards (AASSWB) to the Association of Social Work Boards (ASWB) throughout the Part and also update the names of the examinations given by the Association. In order for a clinical social worker's or social worker's license to be restored after it expires or has been inactive for more than 5 years, an applicant must submit proof of completing 30 hours of continuing education (CE) within the 2 years immediately preceding the restoration application. The rulemaking also specifies that at least 3 of the 30 required CE hours for license renewal or restoration must include content related to the ethical practice of social work. In addition, the ASWB and the National Association of Social Workers are named specifically as preapproved CE sponsors, and incorporations by reference of material related to ethical conduct are updated to more recent editions. Small busi-

nesses, small municipalities, and not-for-profit corporations affected by this rulemaking include those providing social work services or conducting CE courses.

Questions/requests for copies: Barb Smith, DFPR, 320 W. Washington, 3rd Fl., Springfield IL 62786, 217/785-0813, Fax 217/782-7645.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted a peremptory amendment for "Pay Plan" (80 Ill Adm Code 310), effective 12/9/04, to reflect collective bargaining agreements with the American Federation of State, County and Municipal Employees (AFSCME). Insurance company claims examiner 2 and local historical services representative titles became AFSCME-represented technical positions effective 7/29/04. The memoranda of understanding regarding salary negotiations were signed 11/12/04 (insurance company claims examiner 2) and 11/22/04 (local historical services representative) and provide the standard 2% rate increase on 1/1/05.

(cont'd next page)

Proposed Regulations

EXHIBITS ON STATE PROPERTY

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed an amendment for "Acquisition, Management and Disposal of Real Property" (44 Ill Adm Code 500). A companion emergency amendment became effective 11/17/04. The rulemaking strikes the prohibition against placing an exhibit (a static display of material, including but not limited to, art work, photographs, or historical displays) in specified State buildings if the exhibit promotes religious philosophies or political candidates or philosophies. The State buildings affected by this rulemaking are DCMS-managed State office buildings in Peoria, Springfield, Champaign, Des Plaines, Marion, East St. Louis, Rockford, Elgin, and Chicago. Individuals or groups seeking to place exhibits in the State buildings referenced above may be affected by this rulemaking.

Questions/requests for copies/comments until 2/9/05: Gina Wilson (217/785-1793) or Jeff Schuck (217/782-5578), DCMS, 720 Stratton Office Bldg., Springfield IL 62706.

MINIMUM WAGE

The DEPARTMENT OF LABOR proposed an amendment for rules titled "Minimum Wage Law" (56 Ill Adm Code 210) to specify that petitions to inter-

(cont'd page 2)

NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

New Regulations

Questions/requests for copies: Dawn DeFraties, DCMS, 503 Stratton Bldg., Springfield IL 62706, 217/524-8773, Fax 217/558-4497.

PUBLIC ACCOUNTANTS

The ILLINOIS BOARD OF EXAMINERS adopted emergency amendments for rules titled "Certificate of Certified Public Accountant" (23 Ill Adm Code 1400), effective 12/17/04, for a maximum of 150 days. Identical proposed amendments appear in this issue of the *Illinois Register*. The rulemakings establish procedures for entirely computerized Certified Public Accountant examinations. All references to "pencil-and-paper" examinations are stricken, and new procedures for candidate admittance authorization, examination center access, and electronically transferring candidate information from the Board to the National Candidate Database are established. In addition, educational requirements are amended to require that all coursework be com-

pleted and a degree conferred prior to requesting an examination. First-time candidates taking the test before 7/1/05 will be granted provisional approval for in-progress courses taken at domestic institutions and will have 60 days after taking the 1st part of the examination to submit completion documentation. If such documentation is not received within that time frame, any grades earned under provisional status are void. A candidate has 18 months to complete the 4-section exam and may not retake a section within 3 months after failing it. Provisions are added concerning: (1) "transitional" status candidates (those having earned conditional credit for paper-and-pencil exams), including the 18-month completion requirement; (2) transferring out-of-state credits; and (3) score requests. Candidates serving in the armed forces are exempt from the 18-month completion requirements. A revised fee schedule includes evaluation fees for domestic, international, and a combination of credentials; authorization and reau-

thorization testing fees; and a \$50 charge for computer disks. Current examination-related fees are stricken, as is the \$75 late fee; all other fees remain the same. An application will not be considered filed until all application fees and required documentation is received, and all fees are non-refundable except in the case of an overpayment. The rulemakings also reflect the statutory changes that give the Governor the authority to appoint Board members, eliminate the current stipend received by members, and specify that members will be reimbursed for travel in accordance with current travel regulations. Those affected by these rulemakings include businesses that use the services of certified public accountants.

Questions/requests for copies/comments concerning the proposed rulemaking until 2/9/05: Joanne Vician, IBE, 100 Trade Centre Dr., Ste. 403, Champaign IL 61820, 217/531-0929.

Proposed Regulations

vene must be made in writing within 15 days after the date the employee or former employee receives notification of back wages or that the claim is dismissed.

Questions/requests for copies/comments until 2/9/05: Valerie A. Puccini, DOL, 160 N. LaSalle St., 13th Fl., Chicago IL 60601, 312/793-7838, 312/793-5257.

TALKING BOOKS & BRAILLE

The SECRETARY OF STATE proposed amendments for "Illinois State Library Talking Book and Braille Service" (23 Ill Adm Code 3025) to implement Public Act 92-797. The rulemaking strikes the list of 6 talking book centers throughout the State and adds that annual grant applications or contract proposals will be accepted from multi-state service cen-

ters or "qualified providers" to supply accessible electronic information service for "eligible individuals". The grantee or contractor must provide international, national, state, and local news and also opinions, advertisements, and other general interest items using high-speed computers and telecommunication and attendant technologies. Those affected by this rulemaking include potential grantees or contractors who want to compete to provide the above services.

Questions/requests for copies/comments until 2/9/05: Joseph Natale, SOS, Il. State Library, 300 S. 2nd St., Springfield IL 62701-1796, 217/558-4185, E-mail: jnatale@ilsos.net

ST. POLICE MERIT BOARD

The DEPARTMENT OF STATE POLICE proposed amendments for "Pro-

cedures of the Department of State Police Merit Board" (80 Ill Adm Code 150) to add an associate of applied science degree in law enforcement as an option for State police candidates. (Currently, an associate degree of arts or science with general education coursework is acceptable.) The rulemaking also adds 3 years of active military service as a substitute for 3 years of continuous, full-time service as a police officer. In addition, the "sit and reach" physical fitness standards are rounded down for all measurements ending in three-tenths of an inch by substituting one-fourth of an inch.

Questions/requests for copies/comments until 2/9/05: Mr. James E. Seiber, DSPMB, 3180 Adloff Lane, Ste. 100, Springfield IL 62703, 217/786-6240.

JCAR Meeting Action

At its December 14, 2004 meeting, the Joint Committee on Administrative Rules voted the 3 Objections and one Recommendation for the emergency rulemakings below.

DEPARTMENT OF HUMAN SERVICES

JCAR objects to DHS' use of emergency rulemaking to amend Section 684.75, the physician's certification provisions of "Service Planning and Provision" (89 Ill Adm Code 684; 28 Ill Reg 15188). Use of emergency rulemaking procedures is limited to emergency situations that reasonably present a threat to the public interest, safety or welfare requiring the adoption of rules upon fewer days notice than under regular rulemaking. DHS has been unable to provide any rationale for why emergency rulemaking was required in this instance.

The Committee objects to the emergency rules of DHS titled "Eligibility" (89 Ill Adm Code 682; 28 Ill Reg 15183) because DHS used emergency rulemaking to state that a person needing long-term care must obtain a physician's certification every two years. Use of emergency rulemaking procedures is limited to emergency situations that reasonably present a threat to the public interest, safety or welfare requiring the adoption of rules upon fewer days notice than under regular rulemaking. DHS has been unable to provide any rationale for why emergency rulemaking was required in this instance.

JCAR considered emergency amendments to "Food Stamps" (89 Ill Adm Code 121; 28 Ill Reg 15323) and recommends that DHS more strictly follow 5 ILCS 100/5-60 and submit a complete Regulatory Agenda for publication in the *Illinois Register* that anticipates all rules the agency will be proposing, including those necessitated by annual federal reviews and rate updates.

DEPARTMENT OF REVENUE

JCAR objects to the emergency rules of the Department of Revenue titled "Use Tax" (86 Ill Adm Code 150; 28 Ill Reg 15266) because DOR inadvertently adopted an incorrect effective date for the tax exemption (March 1, 2004), rather than a continuation of the July 1, 2004 through June 30, 2005 time frame from Public Act 93-1033.

Second Notices

The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. The rulemakings will be considered at JCAR's 1/11/05 meeting in Springfield.

IL COMMERCE COMMISSION

"Digital Divide Elimination Infrastructure Fund" (83 Ill Adm Code 759) proposed 3/12/04 (28 Ill Reg 4405)

Ill Adm Code 104) proposed 5/7/04 (28 Ill Reg 6833)

"Appeals of Final Decisions of State Agencies" (35 Ill Adm Code 105) proposed 5/7/04 (28 Ill Reg 6842)

125) proposed 5/7/04 (28 Ill Reg 6869)

"Identification and Protection of Trade Secrets and Other Non-Disclosable Information" (35 Ill Reg 130) proposed 5/7/04 (28 Ill Reg 6873)

POLLUTION CONTROL BOARD

"General Rules" (35 Ill Adm Code 101) proposed 5/7/04 (28 Ill Reg 6772)

"Proceedings Pursuant to Specific Rules or Statutory Provisions" (35 Ill Adm Code 106) proposed 5/7/04 (28 Ill Reg 6848)

SECRETARY OF STATE

"Cancellation, Revocation or Suspension of Licenses or Permits" (92 Ill Adm Code 1040) proposed 9/10/04 (28 Ill Reg 12559)

"Regulatory and Informational Hearings and Proceedings" (35 Ill Adm Code 102) proposed 5/7/04 (28 Ill Reg 6805)

"Petition to Review Pollution Control Facility Siting Decisions" (35 Ill Adm Code 107) proposed 5/7/04 (28 Ill Reg 6859)

ILLINOIS COMMERCE COMMISSION

"Enforcement" (35 Ill Adm Code 103) proposed 5/7/04 (28 Ill Reg 6823)

"Administrative Citations" (35 Ill Adm Code 108) proposed 5/7/04 (28 Ill Reg 6864)

"Employee Walkways in Railroad Yards" (92 Ill Adm Code 1546) proposed 9/10/04 (28 Ill Reg 12533)

"Regulatory Relief Mechanisms" (35

"Tax Certifications" (35 Ill Adm Code

The Flinn Report

Illinois General Assembly

Illinois

Regulation

Joint Committee on Administrative Rules
700 Stratton Building Springfield IL 62706

PRSRT STD

U.S. Postage

PAID

Springfield IL

Permit NO. 870

Joint Committee on Administrative Rules

Senator J. Bradley Burzynski

Representative Brent Hassert

Senator James F. Clayborne, Jr.

Representative Tom Holbrook

Senator Maggie Crotty

Representative David Leitch

Senator Steve Rauschenberger

Representative Larry McKeon

Senator Dan Rutherford

Representative David Miller

Senator Ira Silverstein

Representative Rosemary Mulligan

**Vicki Thomas
Executive Director**